

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

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**FILE:** B-210666**DATE:** August 26, 1983**MATTER OF:** Cinema Color Group**DIGEST:**

Inadvertent action on the part of an agency which precludes a potential supplier (even an incumbent contractor) from submitting a bid is not a compelling reason for a resolicitation so long as adequate competition and reasonable prices were obtained and there was no deliberate or conscious attempt to preclude the potential bidders from bidding.

Cinema Color Group (Cinema) protests the award under invitation for bids (IFB) No. DAVA-01-83-D-0011 issued by the Defense Audiovisual Agency (DAVA) on the ground that it was not solicited to bid.

We deny the protest.

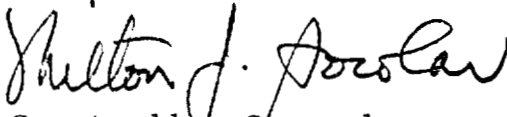
The IFB was for motion picture photographic laboratory processing and printing services for super 8-mm, 16-mm and 35-mm release printing. DAVA contends that the IFB was advertised under the heading of "photographic equipment" in the Commerce Business Daily (CBD), but Cinema did not protest until after award. Cinema contends that it was not aware of the advertisement because the procurement is not for photographic equipment and it does not look under that heading for the type of procurement involved. DAVA replies that under agency guidelines, photographic equipment is the proper heading.

We have long held that inadvertent action on the part of an agency which precludes a potential supplier (even an incumbent contractor) from submitting a bid is not a compelling reason for a resolicitation so long as adequate competition and reasonable prices were obtained and there was no deliberate or conscious attempt to preclude the potential bidders from bidding. Modular Ambulance Corporation; Star-Line Enterprises, Inc., B-185043, January 27, 1976, 76-1 CPD 51. Cinema does not suggest that there was inadequate competition or unreasonable prices received. Cinema's contention is that there was a deliberate attempt to preclude it from bidding.

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It is unfortunate that Cinema was unaware of the procurement because of the manner in which it was advertised in the CBD. However, there is no showing that the procurement was advertised in the manner it was for the specific purpose of concealing it from Cinema.

While Cinema attempts to show by the contracting agency's prior procurement practices with Cinema that the contracting agency must have been acting in bad faith against Cinema in the immediate procurement, we have held that prior procurement practices do not suffice to meet the high standard of proof required to show bad faith in a subsequent procurement. Photo Data, Inc., B-208272, March 22, 1983, 83-1 CPD 281.

for   
Comptroller General  
of the United States